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HARRISBURG, PA

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1 Plaintiff Is A Federal Prisoner Appearing
2 Pro Se And In Forma Pauperis:

3 VICTOR ORTEGA
4 Federal Prisoner #60706-066
5 FCI-Terminal Island Medical Center
6 P.O.B. 3007
7 San Pedro, CA 90731+0207

8 UNITED STATES DISTRICT COURT
9 MIDDLE DISTRICT OF PENNSYLVANIA
10

11 VICTOR ORTEGA,
12 Plaintiff, Pro Se,

13
14
15 v.
16
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18 UNITED STATES OF AMERICA;
19 H.L. HUFFORD, Warden;
20 MR. CASTANEDA, Associate Warden;
21 MR. C. BRANDT, Lieutenant;
22 DR. WEBB, Physician;
23 MR. BOYER, Physician's Assistant;
24 UNKNOWN NAMED CAPTAIN OF SECURITY
25
26
27
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Case No. 3:13-CV-860

VERIFIED COMPLAINT FOR
DAMAGES PURSUANT UNITED
STATES FEDERAL TORT CLAIMS
ACT AND BIVENS v. SIX
UNKNOWN FEDERAL NARCOTICS
AGENTS

JURISDICTION AND VENUE

1
2 1. This Court has Jurisdiction pursuant the Federal Question
3 Statute Title 28 Section 1331 of the United States Federal Code
4 and the First and Eighth Amendment of the United States
5 Constitution and under the Federal Tort Claims Act.

6 2. This Court is the proper venue for this action because
7 all relevant violations of the United States Constitution, state
8 and federal statutes, codes and regulations and violations of
9 nondiscretionary polices and procedures all occurred at the
10 Federal Corrections Institution Schuylkill, which is located
11 within the Middle District of Pennsylvania, the venue of this
12 honorbale Court.

13 AGENCY AND ADMINISTRATIVE NOTIFICATIONS

14 3. The Plaintiff has complied with all prerequisites to a
15 suit under the Federal Tort Claims Act ("FTCA") and all other
16 institutional administrative notices as were made available under
17 the Prisoner Litigation Reform Act ("PLRA").

18 4. Plaintiff timely filed adminsitrative claim for the
19 matters in dispute in this action with the United States Agency
20 Federal Bureau of Prisons.

21 5. The Defendants, by and through its Agency denied all
22 Plaintiff's administrative claims and mailed its notice of denial
23 to Plaintiff.

24 6. This action was timely commenced following denial of
25 administrative claims.

PARTIES

PLAINTIFF:

7. The Plaintiff named and reference herein and hereafter is a federal prisoner proceeding Pro Se and In Forma Pauperis currently confined at Terminal Island Federal Correctional Institution and Medical Center, P.O.B. 3007, San Pedro, CA 90731+0207.

VICTOR ORTGEA, Plaintiff
Federal Prisoner #60706-066
FCI-Terminal Island Medical Center
P.O.Box 3007
San Pedro, CA 90731+0207

DEFENDANTS:

8. Defendant UNITED STATES OF AMERICA is sued under the Federal Tort Claims Act of violations of the Federal Codes of Regulations and violations of nondiscretionary policies and procedures of the Bureau of Prisons through acts of negligence and omissions by the employees of the United States Bureau of Prisons operating under the Department of Justice, an agency of the Defendant United States of America in their OFFICIAL CAPACITIES.

DEFENDANT ENTITY UNITED STATES OF AMERICA
General Counsel for Entity-Defendant United States
Attorney General Eric Holder
Department of Justice
Washington, DC
20534

United States Attorney
Middle District of Pennsylvania
Federal Building
228 Walnut Street, Harrisburg, PA 17108

1 9. Defendant Warden, MR. E.L. HUFFURD was at all relevant
2 times an employee and executive officer of the United States
3 Bureau of Prisons, under the Department of Justice, an agency
4 of the United States of America, operating at FCI-Schuylkill,
5 Interstate 81 & 901 West Minersville, Pennsylvania 17954.
6 Defendant HUFFORD is sued in his **Official Capacity** and his
7 **Individual Capacity**.

8 10. Defendant Associate Warden MR. CASTANEDA was at all
9 relevant times an employee and executive officer of the United
10 States Bureau of Prisons, under the Department of Justice, an
11 agency of the Defendant United States of America, operating at
12 FCI-Schuylkill, Interstate 81 & 901 West Minersville,
13 Pennsylvania 17054. Defendant CASTANEDA is sued in his **Official**
14 **Capacity** and his **Individual Capacity**.

15 11. Defendant Operations Lieutenant MR. C. BRANDT was at
16 all relevant times an employee and senior security of the
17 United States Bureau of Prisons, under the Department of Justice
18 an agency of the Defendant United States of America, operating
19 at FCI-Schuylkill, Interstate 81 & 901 West Minersville,
20 Pennsylvania 17954. Defendant BRANDT is sued in his **Official**
21 **Capacity** and his **Individual Capacity**.

22 12. Defendant Physician DR. WEBB was at all relevant times
23 an employee of the United States Bureau of Prisons, under the
24 Department of Justice, an agency of the Defendant United States
25 of America, operating at FCI-Schuylkill, Interstate 81 & 901
26 West Minersville, Pennsylvania 17954. Defendant WEBB is sue in
27 his **Official Capacity** and his **Individual Capacity**.
28

1 13. Defendant UNKNOWN NAMED CAPTIAN of SECURITY was at all
2 relevant times an employee security executive officer of the
3 United States Bureau of Prisons, under the Department of
4 Justice, an agency of the United States of America, operating at
5 FCI-Schuylkill, Interstate 81 & 901 West Minersville,
6 Pennsylvania 17954. UNKNOWN NAMED CAPTAIN of SECURITY is sued in
7 his **Official Capacity** and his **Individual Capacity**.

8 13a. Plaintiff's attempts to acquire Defendant UNKNOWN
9 NAMED CAPTAIN of SECURITY was thwarted by SHU Security Staff
10 using deceptive and deceitful methods, i.e., providing false
11 names, denying the relevant Defendant as not being the Captain
12 or Schuylkill does not have a Captain of Security. Plaintiff
13 will Motion the Court at the time of sService of Process to
14 have the USM Service investigate and acquire the identity of
15 the Defendant UNKNOWN NAMED CAPTAIN of SECURITY.

IV. PLAINTIFF'S POSTURE IN SUIT

14. Plaintiff Victor Ortega (hereafter "Plaintiff" or "Ortega") brings compound suit against the United States of America for negligent acts and omissions by its employees while acting in their Official Capacity during the course of their employment as prison officials for the Federal Bureau of Prisons ("BOP") pursuant the FTCA.

15. Additionally, Plaintiff brings simultaneous action in this instant suit under Bivens v. Six Unknown Federal Narcotics Agents ("Bivens") for violations of the First and Eighth Amendment of the Constitution by the Defendants, other than the United States, while acting under color of law.

V. GENERAL HISTORIC AND CURRENT FACTS IN SUPPORT OF PLAINTIFF'S ACTION

16. Core controversy in case surrounds Ortega being confined in the Special Housing Unit ("SHU") at Schuylkill Federal Corrections Institution ("Schuylkill") under conditions of confinement that clearly violated nondiscretionary BOP policies, mandatory performance standards and specific directives.

17. It has long been documented through historical records of administrative and civil rights complaint that Schuylkill's SHU is maintained in a manner that is egergeously overcrowded, while SHU confined inmates are housed for several months in "Day-cells" without bunks, thus being compelled to sleep on the floor for months without proper bedding or mattress.

1 18. Moreover, its widely known as a long held impermissible
2 policy that FCI-Schuylkill officials would routinely imprison
3 SHU confined inmates in bunkless "Day-Cells" for months causing
4 the SHU confined inmates to sleep on cement flooring without
5 mattress or bedding and denial of one hour daily exercise period.

6 19. Regardless of the highly restrictive and deficient Day-Cells
7 Schulylkill officials would continue to install and house SHU
8 inmates in bunkless Day-Cells for as long as one year.

9 20. Furthermore, Schuylkill officials not only would install SHU
10 confined inmates in these "Holding-Type" cells for extraordinary
11 lengths of time, but would also compress **4 inmates** into these
12 **10 x 12 foot** bunkless holding-type SHU day-cells for months.

13 21. Bunkless Holding-Day-cells used in negligent violation of
14 BOP policies were and are currently reserved for Schuylkill's
15 Minimum Security ("Prison Camp" or "Camp") disciplinary offenders
16 or administrative detention inmates. This stands in stark
17 contrast to the SHU's treatment of Medium Security prisoners from
18 Schuylkill's main prison, which all have appropriate bunks and
19 are populated as 2-man cells. Schuylkill officials and SHU
20 security staff openly admit, even boast, of this deliberately
21 imposed disparity between Camp and Medium Security inmates. Camp
22 inmates were almost invariably transferred to other prison
23 institutions, often at great distances and would most likely not
24 seek redress in suit over gross conditions of SHU confinement.

25 22. Respecting Medium Security inmates, Schuylkill officials
26 were and are fearful of subjecting higher security prisoners to
27 such extreme abuses of overcrowding and lack of bedding and being
28 compelled to sleep on cement flooring for several months.

23. It is well known by Schuylkill inmates at both the CAMP and the Medium-Security Prison Complex that officials are very fearful if they were to subject the higher security inmates to such extreme SHU deprivations upon release they may seek physical vengeance upon the offending officers or prison staff in general implicating possible inmate-on-staff retribution.

24. On the other hand, CAMP inmates invariable have a much lower security status and the likelihood of prisoner-on-staff backlash stemming from gross deprivations and overt threatening treatment is highly remote. Thus FCI-Schuylkill, as a prison, have historically created a colored policy of subjecting CAMP or Minimum Security Inmates confined in SHU under conditions that violated well-established mandatory policy standards, post directives, codes of federal regulations and required BOP program statements, as well, violating the Constitution.

25. The action brought in suit by Plaintiff alleges that the historical practices, as cited above, were wrongfully and actionably imposed upon Plaintiff Victor Ortega.

VI. PLAINTIFF'S DEFINITIVE STATEMENT OF THE FACTUAL ALLEGATIONS

26. From on or about July 03, 2011 through January 03, 2012, Plaintiff was continuously imprisoned in Schuylkill's SHU under 24-hour lockdown in overcrowded bunkless Day-type Holding-cell conditions for a period lasting nearly 6 months.

27. As a direct result of Plaintiff being confined in SHU cells without bunks, he was compelled to take rest periods and sleep on a substandard one-inch mat-like floor pad daily.

1 28. On numerous occasions during Plaintiff's confinement in
2 the SHU from early July 2011 through January 2012, Plaintiff
3 directly complained to Defendants' Warden Mr. H.L. HUFFORD and
4 Associate Warden Mr. CASTANEDA that continuous confinement in
5 bunkless SHU cells compelled Plaintiff to sit, sleep and rest on
6 cement tile cell floor were extreme violations of BOP policies.

7 29. During the course of Plaintiff's SHU imprisonment, he
8 repeatedly informed Defendants' HUFFORD and CASTANEDA, during
9 the course of those Defendants periodic cell-by-cell inspection
10 of the SHU Complex, being forced to sleep every night on the
11 cell floor was seriously and needlessly aggravating his well-
12 known medical condition relating to Plaintiff's compressed spinal
13 disc, poor lower-body circulation, severe sciatica and acute
14 neuropathy.

15 30. During those numerous encounters with HUFFORD and
16 CASTANEDA, Plaintiff was routinely denied his requests to be
17 reassigned to a SHU-cell properly equipped with a bunk, even
18 though Plaintiff informed HUFFORD and CASTANEDA that his spinal
19 condition was worsening. Plaintiff made clear to HUFFORD and
20 CASTANEDA that he was having ever greater difficulty walking
21 about the SHU-cell and his pain had increased dramatically over
22 the first few weeks from having to sleep nightly on cell floor.

23 31. Furthermore, HUFORD and CASTANEDA denied Plaintiff to
24 be provided with a proper mattress. Instead, Plaintiff was given
25 only a one-inch mat-like pad for the entire term of his SHU
26 confinement on which to sit, sleep and rest.

1 32. Moreover, Defendants' HUFFORD and CASTANEDA refused to
2 provide Plaintiff with an additional floor mat on which to
3 sleep for Plaintiff's entire term of SHU incarceration.

4 33. As similar to the bedding requests Plaintiff petitioned
5 HUFFORD and CASTANEDA, Plaintiff requested on numerous occasions
6 directly to appropriate medical staff for additional bedding
7 citing his well-established medical record reflecting history
8 of spinal disc compression pain, sciatica, neuropathy and
9 loss of circulation, numbness and sharp pain in legs and feet.

10 34. Plaintiff notified Schuylkill's Institutional Physician,
11 Defendant Dr. WEBB and Physician Assistant, Defendant Mr. BOYER,
12 that he was suffering significant and alarming increase of
13 pain throughout his spine and legs caused by being forced to
14 sleep on cement tile SHU floor.

15 35. Despite Plaintiff's numerous and increasingly urgent
16 medical requests to Defendants' Dr. WEBB and Mr. BOYER from
17 July 2011 to January 2012, those Defendants also refused to
18 provide Plaintiff with additional medical bedding or be assigned
19 to a cell with proper bunk and mattress, even though Plaintiff
20 clearly evidenced his medical condition was becoming acutely
21 symptomatic and experiencing agonizing pain levels. Instead,
22 Defendants' WEBB and BOYER prescribed medications, stating
23 Plaintiff would have to endure the source cause of his medical
24 deterioration: Being forced to sleep on the SHU-cell floor on
25 a one-inch mat. Defendants' WEBB and BOYER openly recognized,
26 by their own medical assessments, Plaintiff's serious medical
27
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1 condition was being aggravated by months of bunkless SHU-cell
2 confinement.

3 36. Defendants' WEBB and BOYER stated Plaintiff's medical
4 issues were in keeping with many other previous inmate
5 complaints concerning long termed bunkless SHU-cell confinement.

6 37. In addition to Plaintiff's numerous complaints to
7 Defendants' HUFFORD, CASTANEDA, WEBB and BOYER, he also
8 complained and petitioned to SHU security staff and custody
9 officers that Plaintiff was in dire need of placement into a
10 SHU-cell that was properly equiped with a bunk and mattress.
11 SHU Operation's Lieutenant Mr. C. BRANDT, repeatedly refused to
12 relocate Plaintiff to an appropriately equiped SHU-cell with
13 bunk and mattress even though Defendant BRANDT regularly
14 observed and was informed by SHU-custody staff Plaintiff was
15 in terrible spinal pain and lodging pleas for relief to various
16 SHU staff.

17 38. Defendant BRANDT not only refused to place Plaintiff into
18 a SHU-cell with proper bunk and mattress, BRANDT let it be
19 known that the bunkless SHU-cells were reserved specifically
20 for inmates from Schuylkill's Minimum Security CAMP. BRANDT
21 stated, as was widely known and reported by staff, it was an
22 institutional policy to maintain certain limited number of SHU
23 cells purposefully without bunks and to be kept overcrowded for
24 the exclusive use to impose upon CAMP inmates confined in SHU.

1 39. While confined in the SHU, Plaintiff discovered
2 through SHU-staff and inmates, that from the time of Schuylkill's
3 construction in or around 1992, it was initially intended to
4 install multiple bunks in the assigned Day-cells like the one that
5 held Plaintiff. But it was decided by the original and successive
6 prison administrators not to install bunks into certain cells,
7 thereby permanently designating them as Day-cells or Holding-
8 cells, when in fact those cells were used for long termed housing
9 for SHU inmates from Schuylkill's CAMP facility.

10 40. As Plaintiff's physical and emotional condition worsened
11 he continued to complain to Defendants' HUFFURD, CASTANEDA,
12 BRANDT, WEBB and BOYER. In fact, these Defendants either
13 personally observed or were intimately aware of Plaintiff's
14 physical pain and suffering by the unique placement of the
15 SHU Day-cells directly adjacent to the SHU's Officer Station in
16 where the Defendants and SHU security staff could view into
17 Plaintiff's Day-cell through a large observation window.

18 41. SHU staff regularly viewed Plaintiff in varying states
19 of severe distress while attempting to sit, sleep and rest on his
20 one-inch floor mat. Furthermore, either Defendants or their
21 immediate subordinates clearly observed Plaintiff having
22 difficulty stabilizing himself while urinating and at times of his
23 bowel movements via the Day-cell to Officer Station observation
24 window.

1 42. After several attempts by Plaintiff to address his
2 serious medical concerns through Defendants' HUFFORD, CASTANEDA,
3 BRANDT,WEBB AND BOYER to no avail, Plaintiff began requesting
4 administrative remedy form to formalize his grievences. Numerous
5 requests for adminsitratve remedy were made to the above named
6 Defendants without issuance of remedy forms.

7 43. From about August 2011 through January 2012, Plaintiff
8 repeatedly and increasingly complained to the named Defendants and
9 various SHU security staff that his requests for grievence forms
10 were not being provided, Plaintiff was threatened and harassed by
11 SHU staff. Specifically, SHU staff told Plaintiff to, "Shut his
12 fucking mouth" concerning his "Bullshit whinning" over SHU
13 conditions. to Defendants' HUFFORD, CASTANEDA, BRANDT, WEBB, BOYER.

14 44. Since Plaintiff Ortega is of Hispanic heritage SHU
15 security referred to Plaintiff as a "Spic" and "Greasball" and
16 if he kept whinning he would not be afforded his one-hour daily
17 recreation period. Defendants were very aware that Plaintiff was
18 in ever increasing need for his daily one-hour exercise period
19 to mitigate his degenerative medical condition brought on by
20 gross "Hard-cell" bunkless SHU conditions without mattress.

21 45. As Plaintiff's physical and emotional conditions worsened
22 and requests for adminsitratve forms uniformly deined, Plaintiff
23 was deprived of his one-hour daily exercise period. Privation of
24 Plaintiff's daily exercise period was denied with prejudice,
25 punctuated with blunt statements by SHU security staff he would
26 no longer be receiving daily exercise hour because of his
27 continued said complaints to named Defendants over issues of

1 Hard-cell bunkless SHU conditions and repeated remedy requests.

2 46. Spurred-on by retaliatory denial by SHU custody officers
3 of Plaintiff's Daily exercise hour because he was attempting
4 to formalize his grievance, Plaintiff verbally complained to
5 Defendants' HUFFORD, CASTANEDA, BRANDT, WEBB and BOYER that
6 Plaintiff was being retaliated against by SHU security staff
7 through categorical denial of daily exercise period. In fact,
8 Plaintiff specifically informed above named Defendants that he
9 had been denied daily exercise hour for several weeks, and in
10 conjunction with Hard-cell confinement Plaintiff was experiencing
11 unbearable pain and he was in great fear of permanent spinal
12 and sciatic nerve damage as serious medical need of mattress.

13 47. Specifically, Defendants' HUFFORD and CASTANEDA stated
14 they were aware that Plaintiff required daily rec hour had been
15 reduced to once or twice per-month making generalized statements
16 nothing was unusual or unacceptable about Plaintiff privation
17 of daily recreation hour being curtailed to most twice per-month.
18 When Plaintiff explained to HUFFORD and CASTANEDA that loss of
19 daily rec was directly related to legitimate grievance over
20 bunkless Hard-cell and Plaintiff was being victimized and
21 retaliated against for bringing complaints and remedy requests.
22 Defendants stated circumstances Plaintiff complained of were
23 typical of SHU confinement and such treatment was essentially
24 to be expected when placed in SHU. Similarly, Plaintiff was met
25 with same patent response disregarding Plaintiff's serious
26 medical needs over simple need of a proper institutional issued
27 mattress.

VII. PLAINITFF'S DEFINITIVE FACTUAL ALLEGATIONS AGAINST
DEFENDANT UNKNOWN NAMED CAPTAIN OF SECURITY

48. During Plaintiff's SHU confinement he raised objections by complaining directly to a Schuylkill security executive who identified himself as the "CAPTAIN" of the institution and was in charge of prison security operations overseeing SHU security management and SHU staff supervision.

49. On at least 3 occasions when Defendant UNKNOWN NAMED CAPTAIN OF SECURITY presented himself at Plaintiff's SHU cell door window Defendant UNKNOWN NAMED CAPTAIN OF SECURITY was informed by Plaintiff and other samed SHU cell occupants strenuously objecting to long termed bunkless cell confinement.

50. Defendant UNKNOWN NAMED CAPTAIN OF SECURITY confirmed that he was well-aware of the nature of Plaintiff's objections and requests for reliefs as common and typical of what he regularly hears SHU inmates concerning being forced to sleep, sit and rest on cell floor. UNKNOWN NAMED CAPTAIN stated SHU conditions were in compliance with BOP standards and the SHU had been operating in the manner complained of for years.

51. Defendant UNKNOWN NAMED CAPTAIN OF SECURITY dismissed Plaintiff's serious medical concerns along with other same cell inmates over bunkless long termed floor sleeping conditions. UNKNOWN NAMED CAPTAIN's rejection of Plaintiff's pleas and other cell inmates was blunt and curt, generally stating this is the way his SHU is run and if inmates don't like it they should avoid being placed into the SHU.

1 52. On issue of Plaintiff being denied daily one-hour
2 exercise time as retribution and retaliation because Plaintiff
3 was attempting to access administrative remedy program on issues
4 of SHU grievance, UNKNOWN NAMED CAPTAIN OF SECURITY stated he or
5 his SHU security staff were not required to provide any out-of-
6 cell exercises time whatsoever and Plaintiff's grievance over
7 bunkless cell confinement and prolonged denial of out-of-cell
8 exercises was without merit verbally rejecting grievance of
9 retaliation and retribution.

VIII CLAIMS

53. Plaintiff realleges and incorporates by reference paragraphs 1-52 to establish the following CLAIMS against all named Defendants.

54. As a direct and proximate result of the actions and inactions from the Individual and Combined Negligence, Gross Negligence, Deliberate Indifference and Intentional Malicious acts by the Defendants, jointly and severally, as reference in paragraphs 1-52 caused Plaintiff to needlessly suffer physical and emotional pain and trauma caused by being forced to endure 6 months of sleeping, sitting and resting on cement tiled prison floor while confined in Schuylkill's SHU.

55. Plaintiff suffered from aggravation of his well-known medical condition of compressed disc in Plaintiff's spine, acute sciatica, lack of circulation to his legs and neuropathy because Defendants categorically denied Plaintiff any form of proper bedding, medical bedding or bunk on which to sleep, sit and rest for nearly 6 months.

COUNT I

CLAIMS AGAINST THE ENTITY UNITED STATES AND ENTITY'S
EMPLOYEE- DEFENDANTS' IN THEIR OFFICIAL CAPACITY PURSUANT
UNITED STATES TORT CLAIMS ACT (FTCA).

56. By the wrongful actions, inactions and omissions of Schuylkill's Defendants' HUFFORD, CASTANEDA, BRANDT, WEBB, BOYER and UNKNOWN NAMED CAPTAIN OF SECURITY, while acting the scope of their employment, above named Defendants failed to maintain and implement mandatory and non-discretionary Prison Building codes, Codes of Federal Regulations, SHU Post Directives

1 requiring Named Defendants to timely implement and install basic
 2 cell furnishings such as bunks, mattresses and bedding in SHU-
 3 Cells when being used as long-termed confinement cells.

4 57. Named Defendants negligently violated mandatory occupancy
 5 codes in the SHU by designating "Holding-type/ Day-cells" as
 6 long termed confinement cells without providing proper mattresses,
 7 bunks and bedding causing Plaintiff to be irreparably harmed.
 8 Plaintiff suffers from continued injury from 6-month negligent
 9 SHU confinement. Plaintiff's SHU aggravated spinal disc forces
 10 him to walk with a cane; is in constant back and sciatic pain,
 11 resulting in significant loss of mobility and emotional distress.

12 58. Pursuant the Federal Tort Claims Act, Defendant UNITED STATES
 13 OF AMERICA is liable for the above cited negligent violations of
 14 duty to perform in accordance with mandatory regulations by its
 15 Employee-Defendants while acting in their OFFICIAL CAPACITY.

16 COUNT II

17 FIRST AMENDMENT CONSTITUTIONAL CLAIMS AGAINST 18 INDIVIDUAL-DEFENDANTS (BIVENS ACITON)

19 59. The deliberately indifferent actions and inaction of the
 20 INDIVIDUAL-DEFENDANTS' HUFFORD, CASTANEDA, BRANDT and UNKNOWN
 21 NAMED CAPATAIN OF SECURITY allowed SHU Security staff to harass,
 22 threaten, intimidate and retaliate against Plaintiff during the
 23 time of his SHU confinement because he was attempting to access
 24 administrative remedy on grievence of gross SHU condition for
 25 denial of proper mattress and being housed long termed in bunkless
 26 SHU-cell.

1 60. Specifically, Plaintiff was repeatedly denied with
2 consistant regularity his rightful access to one-hour daily
3 outside SHU cell recreation. Repeated denial of daily rec hour
4 by SHU Security Staff was usually assassociate with clear
5 statements by SHU officers that Plainitff was deliberately being
6 denied rec-hour because of his continued complaints to Individual
7 Defendants 'HUFFORD, CASTANEDA, BRANDT, WEBB, BOYER and CAPATAIN
8 OF SECURITY.

9 61. When Plaintiff further complained to HUFFORD, CASTANEDA,
10 BRANDT and UNKNOWN NAMED CAPTAIN OF SECURITY SHU Security Staff
11 were threatening and retaliating against Plaintiff by dening him
12 rec-hour with continued denial of bunkless cell without proper
13 mattress causing Plaintiff to suffer needlessly, above named
14 Individual-Defendants refused to order SHU Security Staff to
15 cease their impermissible conduct and allow Plaintiff clear
16 access to administrative remedy free from ongoing retribution.

17 62. Plaintiff was denied daily one-hour rec with ever
18 increasing hostility by SHU-Security Staff for period of at
19 least 5 months. Staff hostilities towards Plaintiff were
20 explicity and implicitly punctuated with commentary referencing
21 Plaintiff's continued reports and complaints to Defendnats'
22 CASTANEDA, BRANDT and UNKNOWN NAMED CAPTAIN OF SECURITY and
23 HUFFORD was reason for denial of daily exercise hour .

24 63. The deliberate indifference by Individual-Defendants'
25 HUFFORD, CASTANEDA, BRANDT and UNKNOWN NAMED CAPTAIN OF SECURITY

1 allowing SHU Security Staff to retaliate against Plaintiff for
 2 engaging in protected by attempting to access administrative
 3 grievance forms violated Plaintiff's First Amendment Right. By
 4 doing so Defendants' HUFFORD, CASTANEDA, BRANDT and UNKNOWN
 5 NAMED CAPTAIN OF SECURITY are liable jointly and severally to
 6 Plaintiff for willful violations of the Constitution.

7 COUNT III

8 CONSPIRACY TO VIOLATE FIRST AMENDMENT CLAIMS 9 AGAINST INDIVIDUAL-DEFENDANTS (BIVENS CLAIMS)

10 64. The intentional actions and inactions by Individual-
 11 Defendants' HUFFORD, CASTANEDA, BOYER and UNKNOWN NAMED CAPTAIN
 12 OF SECURITY demonstrates a well-coordinated, comprehensive and
 13 organized plan of action to systematically suppress, by unlawful
 14 means, Plaintiff's right to access administrative remedy program
 15 while being subject to long termed retaliation and retribution
 16 on issue of gross condition of SHU confinement reflects an
 17 enterprizing "meeting of the minds", violate Plaintiff's First
 18 Amendment Right. By doing so, Individual-Defendants are liable
 19 to Plaintiff for conspiracy to violate his First Amendment
 20 Constitutional Right.

21 COUNT IV

22 EIGHTH AMENDMENT CONSTITUTIONAL CLAIMS AGAINST 23 INDIVIDUAL-DEFENDANTS (BIVENS ACTION)

24 65. The deliberate indifference towards Plaintiff's serious
 25 medical needs caused by gross and outrageous conditions of SHU
 26 confinement that ofrced Plaintiff to sit, sleep and rest on SHU
 27 floor for nearly 6 months aggravating Plainitiff's well-known
 28 medical condition Indiviidual-Defendants' HUFFORD, CASTANEDA,

1 BRANDT, WEBB, BOYER and UNKNOWN NAMED CAPATAIN OF SECURITY, are
2 liable to Plaintiff, jointly and severally, for violating
3 Plaintiff's Eighth Amendment Right to be free cruel and unusual
4 punishment.

5 **COUNT V**

6 CONSPIRACY TO VIOLATE PLAINITFF'S EIGHTH AMENDMENT
7 CLAIMS AGAINST INDIVIDUAL-DEFENDANTS' (BIVENS ACTION)

8 66. The intentional action and inactions by Individual-
9 Defendants' HUFFORD, CASTANEDA, BRANDT and UNKNOWN NAMED CAPTAIN
10 OF SECURITY as set forth and referenced demonstrates that the
11 above nanmed Individual-Defendants have historically maintained a
12 well-organinzed, coorodinated and comprehensive plan to
13 systematically and purposefully create, implement and maintain
14 bunkless SHU cells for long termed disciplinary and administrative
15 segragation to exact cruel and unusual punishment in which
16 Plaintiff was subjected to for 6 months during Plaintiff's SHU
17 confinement.

18 67. By placing Plaintiff in Bunkless SHU cells with the well-
19 designed intent to force Plaintiff to sit, sleep and rest on a
20 one-inch thin floor mat knowing it would cause Plaintiff physical
21 and emotional agony, the above named Individual-Defendants are
22 liable to Plaintiff, jointly and severally, for Conspiracy to
23 violate Plaintiff's Eighth Amendment Constitutional right to be
24 free from Cruel and Unusual Punishment.

COUNT VI

INDIVIDUAL-DEFENDANTS' FAILURE TO PREVENT CONSPIRACY TO VIOLATE PLAINTIFF'S FIRST AMENDMENT RIGHT

68. Individual-Defendants' HUFFORD, CASTANEDA and UNKNOWN NAMED CAPTAIN OF SECURITY repeated failure to prevent ongoing retaliation and retribution against Plaintiff because Plaintiff continued to complain to above named Individual-Defendants that long termed bunkless SHU cells forced Plaintiff to sit, sleep and rest on cell floor causing Plaintiff to suffer needlessly.

69. Specifically, HUFFORD, CASTANEDA and UNKNOWN NAMED CAPTAIN OF SECURITY knew Plaintiff was being systematically denied one-hour daily rec period for 5 months because Plaintiff was regularly attempting to access formal administrative remedy forms, in addition to Plaintiff's continuous verbal complaints to above named Individual-Defendants that retaliation was ongoing.

70. Named Defendants knew of the well-coordinated and consistent nature of Defendants' immediate subordinates carrying out illegal retaliation and retribution within the ranks of SHU Security Staff.

71. Furthermore, HUFFORD, CASTANEDA and UNKNOWN NAMED CAPTAIN OF SECURITY knew that Plaintiff was be confined in a bunkless SHU cell thereby forced to sit, sleep and rest on cell floor 24 hours per day and Plaintiff was being kept confined under those SHU conditions as continued retaliation and retribution because he persisted in his complaints verbally and was attempting to access administrative remedy forms on grievance of bunkless SHU conditions.

11 INDIVIDUAL-DEFENDANTS' FAILURE TO PREVENT CONSPIRACY
12 TO VIOLATE PLAINTIFF'S EIGHTH AMENDMENT RIGHT

- 22 -

PRAYER FOR RELIEF

74. Plaintiff makes Prayer for **JURY DEMAND**.

75. RELIEF FOR **COMPENSATORY DAMAGES** (FTCA)

A. On CLAIMS pled in COUNT I, paragraphs 56-58, the Court find the Entity-Defendant UNITED STATES of AMERICA liable to Plaintiff Ortega for the negligent actions, inactions and omissions by Entity's Employee-Defendants' HUFFORD, CASTANEDA, BRANDT, WEBB, BOYER and UNKNOWN NAMED CAPTAIN of SECURITY under the laws governing the Federal Tort Claims Act, and enter Judgment against Defendant UNITED STATES in favor of Plaintiff for COMPENSATORY DAMAGES of **\$500,000.00**.

76. RELIEF FOR **PUNITIVE AND COMPENSATORY DAMAGES** (BIVENS)

A. On CLAIMS pled in COUNT II, paragraphs 59-63, the Court find the Individual-Defendants' HUFFORD, CASTANEDA, BRANDT and UNKNOWN NAMED CAPTAIN of SECURITY liable to Plaintiff Ortega for violations of Plaintiff's First Amendment Constitutional right in the PUNITIVE and COMPENSATORY amounts to be determined by a JURY.

B. On CLAIMS pled in COUNT III, paragraph 64, the Court find the Individual-Defendants' HUFFORD, CASTANEDA, BRANDT and UNKNOWN NAMED CAPTAIN of SECURITY liable to Plaintiff Ortega for Conspiracy to Violate Plaintiff Ortega's First Amendment Rights in the PUNITIVE and COMPENSATORY amounts to be determined by a JURY.

1 C. On CLAIMS pled in COUNT IV, paragraphs 65, the Court find
2 the Individual-Defendants' HUFFORD, CASTANEDA, BRANDT, WEBB,
3 BOYER and UNKNOWN NAMED CAPTAIN of SECURITY liable to Plaintiff
4 Ortega for violations to Plaintiff's Eighth Amendment right in
5 the PUNITIVE and COMPENSATORY amounts to be determined by a JURY.

6 D. On CLAIMS pled in COUNT V, paragraphs 66 & 67, the Court
7 find the Individual-Defendants' HUFFORD, CASTANEDA, BRANDT,
8 WEBB, BOYER and UNKNOWN NAMED CAPTAIN of SECURITY liable to
9 Plaintiff Ortega for Conspiracy to Violate Plaintiff's Eighth
10 Amendment right in the PUNITIVE and COMPENSATORY amounts to be
11 determined by a JURY.

12 E. On CLAIMS pled in COUNT VI, paragraphs 68-72, the Court find
13 the Individual-Defendants' HUFFORD, CASTANEDA, BRANDT and
14 UNKNOWN NAMED CAPTAIN of SECURITY liable to Plaintiff Ortega
15 for Failure to Prevent Conspiracy to Violate Plaintiff's First
16 Amendment Constitutional right in the PUNITIVE and COMPENSATORY
17 amounts to be determined by a JURY.

18 F. On CLAIMS pled in COUNT VII, paragraph 73, the Court find the
19 Individual-Defendants' HUFFORD, CASTANEDA, BRANDT and UNKNOWN
20 NAMED CAPTAIN of SECURITY liable to Plaintiff Ortega for Failure
21 to Prevent Conspiracy to Violate Plaintiff's Eighth Amendment
22 Constitutional right in the PUNITIVE and COMPENSATORY amounts to
23 be determined by a JURY.

VERIFIED COMPLAINT

The foregoing statements of facts and claims brought in this suit are true and correct to the best of Plaintiff Ortega's knowledge, information and belief under the penalty of perjury pursuant the United States Code title 28 §1746 this 27th Day, March 2013.

Victor Ortega
Plaintiff Victor Ortega, Pro Se
Federal Prisoner #60706-066

Most Respectfully Submitted To This Honorable Court This
27th Day, March 2013.

Victor Ortega
Plaintiff Victor Ortega, Pro Se
Federal Prisoner #660706-066

CERTIFICATE OF SERVICE

I, DAVID SHARPE MARSHALL, certify on this 27^A
day of MARCH, 2013, that I sent first class postage
prepaid, or other delivery charges prepaid, by depositing said
documents herein-listed, pursuant to Houston v. Lack, 487 U.S.
266, 270-271, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988) (holding
that a pro se prisoner's filing was deemed filed on the date
of delivery to prison authorities for filing with the district
court), mailing copies of the foregoing:

VERIFIED COMPLAINT FOR DAMAGES PURSUANT UNITED STATES
TORT CLAIMS ACT AND BIVENS v. SIX UNKNOWN NAMED FEDERAL
NARCOTICS AGENTS.

to the following individuals and/or entities:

UNITED STATES FEDERAL COURTHOUSE
HARRISBURG 1
FEDERAL BUILDING
P.O. BOX 868
228 WALNUT STREET
HARRISBURG, PA
17108

I certify under penalty of perjury that the foregoing is true
and correct, under 28 U.S.C. §1746 of the United States Code.



Fed. Reg. No. # 87789-011
Federal Correctional Institution
at Terminal Island
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San Pedro, California 90731-0702

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MARIE DANDHEA, CLERK
Per _____

⇒ 87789-011 ⇒

Harrisburg Federal Courthouse
228 Walnut
Harrisburg, PA 17108
United States

